

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

ANA M. HANSON, et al.,

Plaintiffs,

V.

D'VEGA BUILDERS INC., et

al.,

Defendants.

Case No.: CV 23-02435-SP

ORDER DISMISSING CASE FOR LACK OF PROSECUTION

Plaintiffs filed a complaint to initiate this action on November 30, 2023, naming D’Vega Builders Inc. and Javier Rodriguez Vega as defendants. Under Federal Rule of Civil Procedure 4(m), plaintiffs were required to serve each defendant with the summons and complaint within 90 days after the complaint’s filing, that is, no later than February 28, 2024. The deadline for service passed without plaintiffs filing proof of service of the summons and complaint. Although plaintiffs attached a proof of service to the complaint, that merely indicates the complaint was mailed to defendants, but the summons was not included, and in any event such mailing by itself is insufficient to effect service. *See* Fed. R. Civ. P. 4(c)(1), (e). Nor is there any other indication before the Court that the summons and complaint have been properly served on any defendant.

1 Accordingly, on March 4, 2024, the Court issued an Order to Show Cause Why
2 Case Should Not Be Dismissed for Failure to Effect Service and Prosecute. The Court
3 ordered plaintiffs to show cause in writing by March 18, 2024 why the case should not be
4 dismissed without prejudice for plaintiffs' failure to prosecute and serve defendants
5 within the required time period. The Court further stated that plaintiffs could discharge
6 the Order to Show Cause by filing, not later than March 18, 2024, proof of service of the
7 summons and complaint. The Court explicitly warned plaintiffs that failure to respond by
8 March 18 may result in dismissal.

9 More than a month has passed since the March 18 deadline, and plaintiffs have
10 neither filed proof of service nor responded in any way to the Order to Show Cause. Rule
11 4(m) provides that if a defendant is not served within 90 days after the complaint is filed,
12 the Court "must dismiss the action without prejudice against that defendant or order that
13 service be made within a specified time," unless plaintiff shows good cause to extend the
14 time for service. Fed. R. Civ. P. 4(m). The Court has already ordered service by March
15 18, 2024, and given plaintiffs an opportunity to respond to the Order to Show Cause.
16 Plaintiffs have not responded to the Order to Show Cause in any fashion. As such,
17 dismissal without prejudice is warranted for failure to effect service and prosecute this
18 action.

19 IT IS THEREFORE ORDERED that this action is dismissed without prejudice.

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21 DATED: April 22, 2024

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23 DOLLY M. GEE
24 CHIEF UNITED STATES DISTRICT JUDGE
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